IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL REFERENCE NO. 1 OF 2003.

Shri V.D. Nandedkar,
Member Industrial Court, Thane ..Petitioner.
V/s
1. S.C. Chobal, Advocate
2. Shri L.R. Mohite ..Respondents.

Shri B.H. Mehta, A.P.P. for the Petitioner.

Shri R.M. Joshi and Shri R.N. Nerlekar for respondent No.2.

CORAM : B.H. MARLAPALLE &
J.H. BHATIA, JJ.

RESERVED 14TH NOVEMBER, 2006.
PRONOUNCED ON 16TH NOVEMBER,2006.

JUDGMENT (PER J.H. BHAITA, J.)

. This reference was made by Mr. V.D. Nandedkar, the learned Member of Industrial Court, Thane under Section 15 of the Contempt of Courts Act, 1971 r/w Rules under Section 23 of the Said Act. As per the contentions of the reference letter, during the hearing of an application (MRTU), bearing No. 21/1994 before the learned Member, Industiral Court, Thane, Shri S.S. Choubal, Advocate was representing the company i.e. M/s Siemens (I) Ltd. and workers Union was represented by

Shri L.R. Mohite, the contemner. During the hearing contemner, Mr. Mohite could not control his voice and Mr. Choubal asked him " not to shout". This resulted into further heated exchange of words and during the said exchange Mr.Mohite, while addressing Mr. S.C. Choubal said " you bloody bastered, shut up". This incident occurred in presence of the learned Member of the Industrial Court, Advocates, representative of workers etc. On request made by Mr. Choubal, the learned Member called explanation of Mr.Mohite, who also made certain allegations against Mr.Choubal of having provoking him in low voice. The explanation of Mr. Choubal was also called. On the basis of enquiry, the learned Member made reference against Mr. Choubal and Mr. Mohite.

2. Taking into consideration the actual incident, which had occurred in the packed Court room of the Industrial Court this Court issued notice to Mr.Mohite alone. Contemner, Mr. Mohite filed the affidavit-in-reply on 6th November, 2006 While explaining his conduct, he submitted that while submitting his explanation before the Industrial Court he had apologised for his conduct. According to him,

the utterances were made in the heat of anger due to provocation. In his reply before this Court also, while explaining the circumstances in which he had uttered the words, he tendered his unconditional apology before this Court. In view of this, this Court directed the contemner to file affidavit of his unconditional apology before the Court, where he had committed the contempt by his untterences. Accordingly, on 7th November, 2006, the contemner filed his affidavit before the Member, Industrial Court, Thane, wherein also he has tendered his unconditional apology.

3. Taking into consideration the circumstances in which the contemner had uttered the objectionable words and the fact that he had apologised the said Court in its explanation dated 11.10.2002 and again by his affidavit dated 7th November, 2006 and the fact that he has also tendered unconditional apology before this Court, we find that the apology is bonafide and may be acceptable.

4. In the aforesaid circumstances, the apology is accepted. The proceeding under Contempt of Court Act against Mr. Mohite is hereby discharged.

(J.H. BHATIA, J.) **(B.H. MARLAPALLE, J.)**